

## **SOUTH DAKOTA BOARD OF EDUCATION MINUTES**

<b>Date:</b>	<b>Monday, July 27, 2015 – 10:00 a.m. Mountain Time (Telephonic)</b>
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**Location:** Public Listening Place:  
Western Dakota Technical Institute, Dakota Hall Lecture Room  
800 Mickelson Drive, Rapid City, South Dakota

Public telephonic access:  
1-866-410-8397/conference code: 8381998525

**Present at  
public listening  
place:** Donald Kirkegaard, President  
Stacy Phelps, Member (joined the meeting at approximately 10:14 a.m. MT)

**Present via  
telephone:** Kelly Duncan, Member  
Glenna Fouberg, Member  
Marilyn Hoyt, Member  
Julie Mathiesen, Member  
Terry Sabers, Member  
Deb Shephard, Member  
Patricia Simmons, Vice-President

**DOE Staff:** Bobbi Rank, Abby Javurek-Humig, and Ferne Haddock (public listening place);  
Melody Schopp, Tiffany Sanderson, and Holly Farris (via telephone)

**Others in  
Attendance:** Other members of the public personally present and via telephone.

### **Call to Order, Pledge of Allegiance, and Roll Call:**

President Kirkegaard called the meeting to order at approximately 10:02 a.m. MT.

### **Adoption of Agenda:**

Motion by Fouberg, second by Duncan, to adopt the July 27, 2015, proposed agenda. Roll call vote, all present voted in favor. Motion carried.

### **Approval of Minutes:**

Motion by Duncan, second by Mathiesen, to approve the May 18, 2015, and July 15, 2015, minutes. Roll call vote, all present voted in favor. Motion carried.

### **Public Hearing-Rules:**

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### Section 24:10:42:28 (postsecondary technical institute per student allocation) (pp. 3-4)

Public Comment:

No public comment was received.

Proponent testimony:

Tiffany Sanderson, DOE director of career and technical education, testified in favor of the proposed rules. The proposed rule change directly reflects the postsecondary technical institute per student allocation approved by the South Dakota legislature for fiscal year 2016 (\$3,395.71) and cleans up a reference on page four.

Opponent testimony:

There was no opponent testimony in person or via phone.

Motion by Duncan, second by Mathiesen, to approve the proposed rule. Roll call vote, all present voted in favor. Motion carried.

### Chapter 24:15:06 (math endorsement rules) (pp. 7-10)

Public comment:

No public comment was received.

Proponent testimony:

Abby Javurek-Humig, DOE director of assessment and accountability, testified in favor of the proposed rules. The rules create a new intermediate-level endorsement for math teachers in response to districts' and teachers' need for flexibility in putting qualified math teachers in classrooms.

In response to Board questions, Javurek-Humig stated that the new intermediate-level math endorsement would allow teachers to teach algebra I, algebra II, geometry courses, and consumer math classes, while the 7-12 math endorsement would still be necessary to teach higher level courses such as calculus.

Opponent testimony:

There was no opponent testimony in person or via phone.

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Motion by Phelps, second by Mathiesen, to approve the proposed rule changes. Roll call vote, all present voted in favor. Motion carried.

Section 24:15:03:04 (revoke, suspend, or void a certificate) and Article 24:18 (certificate denial and discipline procedures) (pp. 5-6, 11-17)

Public comment:

No written public comment was received.

Proponent testimony:

Bobbi Rank, DOE legal counsel, testified in favor of the proposed rules. The repeal of 24:15:03:04 (pp. 5-6) is proposed because the rule is unworkable in its current form. The rule as written requires DOE to deny a teaching certificate if the applicant is suspended in another state, even if that out-of-state suspension is based on conduct for which the applicant has already served his or her suspension in South Dakota. A new, more workable rule has been proposed as 24:18:03:02 (p. 15), which allows DOE to consider evidence of out-of-state discipline in considering applications but does not dictate the ultimate decision.

The new rules in chapter 24:18 put into rule the current due process procedure used by DOE for certificate applicants and fulfill the rule-making obligations in 2015 HB 1044. 2015 HB 1044 clarified portions of the process for suspending or revoking an existing teacher or administrator certificate and granted additional rulemaking authority in regard to applications for an initial or renewed certificate. The new rules add definitions, lay out the process that DOE must follow if a certificate is to be denied, provide for a hearing and the hearing process for an applicant aggrieved by DOE's decision, allow for consolidation if there is a pending proceeding to revoke or suspend a certificate and an application to renew the same certificate, and provide details on the content and service of the ultimate decision and the applicant's right to appeal. The rules also clarify that an applicant has no right to hearing for a request to reconsider or shorten a revocation or suspension. In addition, the rules lay out which records are considered public consistent with a previous circuit court decision and 2015 HB 1044.

Rank also discussed and proposed two amendments as part of her testimony in response to questions raised by another education law attorney before the hearing. The proposed amendments were posted to the Board's website and made part of the record of the hearing. The first amendment clarified the time for issuance of the decision after hearing based on whether a transcript is available (24:18:02:04) and the second clarified that consolidation of certificate denial and ethics complaint proceedings was voluntary rather than mandatory because the issues may not be the same (24:18:02:07).

In response to board questions, Rank discussed the impact of teacher certificate suspensions or revocations in other states, the process for reapplication at the conclusion of a suspension, and which records are public. Rank also pointed out that the rules will not have an increased

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impact on applicants or schools because the rules reflect the current practices of DOE and are consistent with existing state statute.

Opponent testimony:

There was no opponent testimony in person or via phone.

Motion by Simmons, second by Sabers, to amend §§ 24:18:02:04 and 24:18:02:07 as presented. Roll call vote, all present voted in favor. Motion carried.

Motion by Simmons, second by Hoyt, to approve the rules as amended. Roll call vote, all present voted in favor. Motion carried.

Section 24:43:09:05 (school term length grades one, two, and three), Chapters 24:40:05 (tuition equalization grant program), 24:40:09 (Robert C. Byrd honors scholarship program), and 24:40:11 (Christa McAuliffe fellowship program), and Article 24:54 (teacher compensation assistance program) (pp. 18-47)

Public comment:

No public comment was received.

Proponent testimony:

Bobbi Rank, DOE, testified in favor of the proposed rules, which are repeals. The proposed repeals are part of ongoing red-tape review of statutes and rules by DOE. All rules to be repealed are outdated, unfunded, or linked to statutory authority which has been repealed.

Section 24:43:09:05 (p. 40) is no longer necessary because the minimum school term for grades 1-3 has been incorporated into SDCL 13-26-1, and the rulemaking authority in that statute has been repealed. The statutory authority for chapter 24:40:05 (pp. 18-27) and article 24:54 (pp. 41-47) has been repealed. The programs in chapters 24:40:09 and 24:40:11 (pp. 28-39) are no longer funded.

Opponent testimony:

There was no opponent testimony in person or via phone.

Motion by Duncan, second by Fouberg, to approve the proposed rules. Roll call vote, all present voted in favor. Motion carried.

Rules hearing concluded at approximately 10:57 a.m. MT.

**Adjournment:**

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The meeting was adjourned at approximately 10:59 a.m. MT

Respectfully submitted,

Ferne G. Haddock 8/27/15  
Ferne Haddock  
Department of Education